

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

ROBERT HUNTER BIDEN,

Plaintiff,

v.

FOX NEWS NETWORK, LLC; FOX
CORPORATION; VIET D. DINH; JASON
KLARMAN; and JOHN and JANE
DOES 1-100,

Defendants.

X

: Case No.: 1:24-cv-07814-JHR

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

X

**NOTICE OF PLAINTIFF’S MOTION
FOR REMAND AND FOR HIS
ATTORNEYS’ FEES AND COSTS**

Plaintiff Robert Hunter Biden, by and through his undersigned counsel, hereby moves this Honorable Court, pursuant to 28 U.S.C. § 1447(c), to remand this case back to state court. This motion is based upon the Memorandum of Law and Declaration of Counsel attached hereto, and is brought on the grounds that the Court lacks subject matter jurisdiction over this action.

The removing Defendants Fox News Network, LLC and Fox Corporation (hereafter collectively the “Fox Defendants”) are barred under the forum defendant rule from removing this action based on diversity jurisdiction because they are both New York citizens, and Defendant Fox News Network, LLC was properly joined and served prior to the Fox Defendants’ filing their notice of removal. *See* 28 U.S.C. § 1441(b)(2). Moreover, complete diversity does not exist between the parties under 28 U.S.C. § 1332(a) because Plaintiff and Defendant Viet Dinh are both California residents, and the Fox Defendants’ contention that Mr. Dinh was fraudulently joined to defeat diversity lacks merit.

The Court also does not have federal jurisdiction over this action where the Complaint does not affirmatively allege any federal claims, and Plaintiff's state law privacy claims do not "arise under" and are not preempted by the federal Copyright Act.

Because the Fox Defendants' removal of this action was objectively unreasonable, and because they refused repeated opportunities to withdraw their improper notice of removal (choosing instead to file an amended notice of removal), the Court should award Plaintiff his attorneys' fees and costs incurred in connection with the improper removal and his motion for remand, pursuant to 28 U.S.C. § 1447(c).

Dated: November 13, 2024

Respectfully submitted,

/s/ Tina Glandian

Tina Glandian, Esq.
GERAGOS & GERAGOS, APC
256 5th Avenue
New York, New York 10001
(213) 625-3900
geragos@geragos.com

Attorneys for Plaintiff
Robert Hunter Biden